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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/032,172	02/27/1998	ERIC C. ANDERSON	P135	9604

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STEPHEN G SULLIVAN
SUITE 800
152 N THIRD STREET
SAN JOSE, CA 95112

EXAMINER

VU, NGOC YEN T

ART UNIT

PAPER NUMBER

2612

DATE MAILED: 01/16/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/032,172

Applicant
Eric C. ANDERSON

Examiner
Ngoc-Yen VU

Art Unit
2612



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Feb 27, 1998
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1535 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-13 is/are allowed.
- 6) ☒ Claim(s) 1-7, 14, and 16-18 is/are rejected.
- 7) ☒ Claim(s) 15 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirements.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other: _____

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Specification

1. The disclosure is objected to because of the following informalities: missing patent applications on pages 1 and 22. Appropriate correction is required.
2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Objections

3. Claims 1, 4-5, 15 and 18 are objected to because of the following informalities:

Claim 1: line 10, change "the user" to "a user".

Claim 4: line 2, change "the first overlay bar" to --a first overlay bar--.

Claim 5: line 2, change " a fist" to --a first--.

Claim 15: line 5, change "the first captured image" to --a first captured image--.

Claim 18: insert --a-- before "previously captured and stored image".

Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-7 and 14 and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al. (US #6,310,648) in view of Alexander (US #5,896,131).

Claims 14 and 16-18 will be discussed first. Regarding claims 14 and 16, Miller '648 teaches a digital imaging device (18) comprising an imaging device (38) for capturing image data; a memory (42) coupled to the imaging device for storing the image data as captured images; a display (22) for displaying captured image; a processor (44) coupled to the imaging device (38) and to the memory (42) for controlling operation of the digital imaging device and for operating the image device in at least two operating modes (reviewing and previewing captured images); and at least one overlay bar (menu bar 34/34') displayed on the display, the at least one overlay bar including a background and a combination of mode-specific status information and interactive instructions, wherein the interactive instructions automatically guide a user through a mode specific operation (col. 5 line 55 - col. 10 line 50).

Claim 14 differs from Miller in that the claim further requires the at least one overlay bar including a translucent background. While Miller fails to teach a translucent background for the menu bar 34/34', Miller does teach that the menu bar can be displayed or removed on the display (22) manually so that the current displayed image (50) can be fully seen by a user (col. 7 lines 20+). Alexander '131 teaches in figures 3-5 a graphical display system in which a background image is visible withing a foreground windows including pull-down menus or pop-up dialog boxes

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(col. 4 lines 14+). Alexander teaches that it is useful to see the waveform background behind the pull-down menus or pop-up dialog boxes during interactive control changes (col. 4 lines 32-34). In light of the teaching from Alexander, one of ordinary skill in the art having both the teachings of Miller and Alexander would have recognized that it would be desirable to provide the menu bar 34/34' with a translucent background because it is useful to see the currently display image (50) while the user effect functions or actions on the display image using the menu bar.

As to claim 17, Miller teaches that the captured image is a live image displayed during a capture mode (col. 10 lines 38+).

As to claim 18, Miller teaches that the captured image is a previously captured and stored image (col. 5 lines 9+).

Regarding method claims 1-7, the subject matter in claims 1-7 can be found in claims 14 and 16-18. It is noted that Miller does teach a sound annotation operation (col. 7 lines 1+; col. 10 lines 30+), and the menu bar 34/34' is adjacent to a horizontal size of the display (22).

Allowable Subject Matter

6. Claims 9-13 are allowed.

7. Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form to overcome the objection, as set forth in paragraph No. 3 in this Office action, and to include all of the limitations of the base claim and any intervening claims.

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Conclusion

8. **Any response to this office action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314, (for formal communications intended for entry)

(for informal or draft communications, please label

"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA.,
Sixth Floor (Receptionist).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Ngoc-Yen Vu** whose telephone number is (703) 305-4946. The examiner can normally be reached on Mon - Fri from 8 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wendy Garber**, can be reached on (703) 305-4929.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the customer service office whose telephone number is (703) 306-0377.

NYV
01/11/2002


Ngoc-Yen Vu
Patent Examiner
Group Art Unit 2612